

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MONTANA
BUTTE DIVISION

NICHOLAS DOUGLAS; TASHEKA
BRYAN; JUNIOR HARRIS;
MARCUS RICHARDS;
STEPHANEY SMITH; and those
similarly situated,

Plaintiffs,

-vs-

Civil Docket
No. 18-62-BU-SEH

YELLOWSTONE CLUB
OPERATIONS, LLC; and
HOSPITALITY STAFFING
SOLUTIONS, LLC,

Defendants.

TRANSCRIPT OF TELEPHONIC STATUS CONFERENCE PROCEEDINGS

Heard in Judge Haddon's Chambers
Paul G. Hatfield United States Courthouse
901 Front Street
Helena, Montana
September 3, 2020
2:08 p.m.

BEFORE THE HONORABLE SAM E. HADDON

UNITED STATES DISTRICT JUDGE

TINA C. BRILZ, RPR, FCRR
Freelance Court Reporter
BRILZ COURT REPORTING, INC.
4956 Smallwood Court
Helena, Montana 59601

Proceedings recorded by mechanical stenography, transcript
produced by computer.

A P P E A R A N C E S :

PRESENT ON BEHALF OF THE PLAINTIFFS, NICHOLAS DOUGLAS;
TASHEKA BRYAN; JUNIOR HARRIS; MARCUS RICHARDS; STEPHANEY
SMITH; and those similarly situated:

MR. DAVID H. SELIGMAN
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and

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and

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PRESENT ON BEHALF OF THE DEFENDANT, YELLOWSTONE CLUB
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APPEARANCES CONTINUED:

PRESENT ON BEHALF OF THE DEFENDANT, HOSPITALITY
STAFFING SOLUTIONS, LLC:

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MR. ROGER G. TRIM
Attorneys at Law
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(Appearing via telephone)

1 The following proceedings were had:

2

3 THE COURT: Good afternoon, counsel.

4 (Several said "good afternoon.")

5 THE COURT: Counsel, I have a list that suggests we
6 have Ms. Lowrey, Mr. Christopher Young, Mr. David Seligman, and
7 Mr. Alexander Hood, Mr. Jeffrey Roth, and there are more;
8 Mr. Roger Trim and Ms. Lauren Zeldin.

9 Am I correct in those are the participants?

10 MALE VOICE: That's correct, Your Honor.

11 THE COURT: All right.

12 And I understand, Mr. Seligman, Mr. Roth, and Ms. Zeldin
13 will have the speaking roles. Again, am I correct?

14 MS. ZELDIN: Yes, Your Honor.

15 THE COURT: Then I will ask, counsel, if you are one
16 of those who intends to speak, that when you commence a
17 separate statement, that you identify yourself for the record
18 so that Ms. Brilz, our reporter, will be able to know with
19 certainty who is speaking. All right?

20 Well, counsel, I asked for this conference, and I did so,
21 because it appeared to the court to be appropriate and
22 necessary as a result of a number of recent filings that have
23 occurred in this particular case.

24 The order that sets the conference is Docket Number 65.
25 It was filed on August 31.

1 Prior to that filing, on February 4, the court issued an
2 order that required certain submissions to be made to the court
3 concerning factual matters and history matters in the case.

4 And that was, with some extensions, responded to with
5 Docket Number 63, which was filed on August 24, characterized
6 by title as an "Unopposed Motion For Preliminary Approval of
7 Class Action Settlement" and other statements.

8 That was accompanied by a brief, which was Docket Number
9 64. The court reviewed those filings, and issued its order,
10 Docket Number 66, which gave notice to everyone that the court
11 would not consider the filings that had been made, presumably
12 in response to the court's orders. In fact, did not comply
13 with the court's order. And I denied the motion for that
14 reason. Gave to the plaintiff an opportunity to resubmit the
15 motion upon conditions that were outlined in the order.

16 The next development of significance, was on September 2,
17 Docket Number 68, I think. And was entitled: "Supplemental
18 Brief in Support of an Unopposed Motion to Settle," et cetera,
19 et cetera.

20 We have a response ordered to be filed by the defendants
21 to this document, Number 66. That response is due to be filed
22 by September 18. And that's not yet been filed, so we don't
23 have the benefit of whatever it may say.

24 We do have the materials that were filed yesterday, Docket
25 Number 68.

1 We have undertaken as time has permitted, a review of
2 those materials. They are, of course, similar to prior
3 materials. They are voluminous in their content with the
4 statistical data and other calculations compiled, I think,
5 primarily by a statistician.

6 But our review within the time that's been available has
7 allowed us to make some determinations about what were
8 considered by the court to be deficiencies in prior filings.

9 We have -- for example, we've been able to determine that
10 the wages that are said to have been received by the four
11 categories of workers that fall within what was said to be the
12 asserted class, that's both regular and overtime hours that
13 wages that were received.

14 We have within those terms what the plaintiff asserts to
15 be a so-called should-have-been-paid rate for wages for each of
16 these four categories of employees, the bartenders, servers,
17 cooks, and -- what was the fourth -- bartenders --
18 housekeepers.

19 And we do not have among those materials that have been
20 provided to date, the total number of dollars that were not
21 sent to the employees in the form of paychecks. But were, in
22 fact, remitted to someone as service charges or amounts above
23 the actual wages paid out to the employees in net wages. So we
24 don't have that.

25 I think those numbers, or those amounts are characterized

1 variously in the papers as service charges. That's a label
2 that's applied on occasion.

3 I also see in the papers that have been filed what are
4 characterized as bonuses paid. I'm not sure if those are the
5 -- intended to be the same numbers, or whether they are some
6 sort of different calculation. But we have different titles
7 applied to amounts over and above the wage rate that show up in
8 these papers.

9 We don't have anything like a description of the formula
10 that the employer used to divide up or calculate these -- what
11 I would call add-ons or service charges.

12 We know what the hourly rate paid was. We know what the
13 plaintiff says the hourly rate that should have been paid was.
14 At least we have the plaintiffs' statement on that.

15 But, we don't have a formula or a method of computing here
16 in chambers how the so-called service charges or tips or
17 bonuses or whatever may have been applied to identify that
18 classification of money, how those -- how those -- what the
19 formula was that arrived at that number.

20 And we don't know, from what's available to the court,
21 whether the entirety of these funds that are sometimes called
22 service charges were turned over to the employees, that is,
23 remitted to the employees, or whether some part of those funds
24 that were not a part of the wage package were, in fact,
25 withheld by the employer. Some part of dollars received by the

1 employer, were they or were they not withheld? And if so, why
2 were they withheld?

3 And I will acknowledge to you, counsel, I remain unclear
4 as to what label is to be applied to this fund of money that is
5 a fund of money intended to cover matters other than a direct
6 payment of wages.

7 Whether they are -- everyone's comfortable in calling them
8 service charges, or whether some prefer to call them bonuses,
9 or whether there's some other title that some one of the people
10 involved in the case might prefer to call them. Whatever that
11 title is, I don't think it's been agreed upon among the various
12 participants. And I cannot tell you in this call just exactly
13 what is said to be a service charge, as compared to what is
14 said to be a bonus, as what is compared to be something else.

15 And another matter that we do not have available here from
16 my review of the materials, we do not have a clear indication
17 of how the plaintiffs arrived at what the plaintiffs assert to
18 be the should-have-been-paid rate. The hourly rate that should
19 have been paid to each of these four classes, or four groups of
20 people that were in the -- that are in the putative class.

21 Is that a rate that was derived from contract? Written
22 contract? Or verbal contract? Or is it a rate that was
23 selected because it is something in the nature of an average of
24 what was paid to other people in the employ there at Big Sky?
25 It's unclear to me how that should-have-been-paid rate was

1 arrived at, number one. And number two, is it based upon what
2 the plaintiffs assert to be contracts that existed between the
3 several persons in the four groups and the employer.

4 I just can't answer that.

5 But what I can say, counsel, is that the large volume of
6 material that's arrived here as of yesterday, is under review
7 and will continue to be under review. But it has raised not as
8 many questions as it answers, but it leaves, in its present
9 form, the court with the fact of being somewhat uncertain about
10 what some of these numbers were -- where they were -- how they
11 were arrived at, where they come from, and what they were
12 intended to apply to.

13 And I would ask us all to keep in mind that we have not at
14 this point in this transaction, or this case, the court has not
15 made any certification of any class, whether of a class asked
16 for, or some other class.

17 And we've not issued any order that commits the court to
18 any particular class definition, or even to assert or say that
19 the court is prepared to declare a class action. That's not
20 been done.

21 We have this assumption that there is a settlement of what
22 is supposed to be a class action. But you don't have the
23 benefit of any rulings of the court to back that up at this
24 point.

25 We have other matters that are known from reading the

1 papers that have been filed, but we don't have any court
2 approval of, for example, the fact that this is to be -- matter
3 is to be settled for a million dollars. Nor do we have any
4 address or approval of whether the court would agree to a
5 \$250,000 fee for counsel.

6 A third item that is sought, but not agreed upon or ruled
7 upon, is the request for a hundred thousand dollars to pay the
8 five class representatives; \$20,000 apiece, as I recall the
9 paperwork.

10 We don't have any approval of any particular amount of
11 out-of-pocket costs that would be said to be a component of
12 deductions from the \$1 million gross settlement.

13 And I don't have a clear picture, counsel, at this point,
14 of how the parties would anticipate the mechanics of handling
15 the settlement, if there is a settlement, how that's going to
16 be handled.

17 We have some other matters I'll talk about here in a bit,
18 including that if these people receive monies in settlement,
19 I'm talking about not lawyers or -- the class representative
20 settlement, presumably, would be wages or income that will have
21 to be reported. The monies that the members of the class
22 receive, which will have to be, I think, reported as income.
23 And we don't have any formula yet in place as to how all of
24 those details are going to be handled; how the individual
25 members of the class will ultimately be paid; who is going to

1 be responsible for tax withholdings or other withholdings that
2 may have to be made from those settlements. How that's going
3 to be dealt with.

4 I assume from what we have read, that the ultimate
5 settlement contemplates something in the nature of dividing up
6 the net amount of money available for distribution to the
7 members of the class or classes and prorating that equally
8 among the 83 persons who make up the group. I'm not certain
9 that that's what's intended. But that appears to be what is
10 proposed. To use an example, we have 83 people in this class,
11 each one of them is going to get one-eighty-third of whatever
12 the fund available to be distributed will turn out to be.

13 That doesn't seem to have any direct relationship to the
14 amount of loss that these persons may legitimately be entitled
15 to claim otherwise.

16 That is, having been paid at a rate that was less than
17 what they should have been paid, or that they expected to be
18 paid, or thought they would be paid, or contracted to be paid.

19 And we -- by our calculation here in chambers, it appears
20 that there is a substantial amount of money that would be in
21 the common fund over and above the actual wages that weren't
22 paid to these people that, presumably, would be allocated as a
23 compensation to these people for unspecified damages.

24 I have no position or opinion on that as to whether those
25 unspecified amounts would be treated as income, or whether they

1 would be treated as some sort of non-income compensation in the
2 form of damages.

3 All I'm saying to you, counsel, is we've got a lot of
4 unanswered questions here at this point.

5 And kind of a bottom line of where we are today, so that
6 you'll understand the court's position, if we are going to
7 bring this matter to conclusion by settlement, the court is
8 going to have to be satisfied that it is, in the larger sense
9 of things, fair to do so. And I am not at all convinced, based
10 upon what's been presented to the court, that that concept of
11 fairness pervades as the court might deem it necessary to
12 pervade in order to get this case settled. We will do what we
13 can within reason to help you get the case settled, if that's
14 what the parties want to do.

15 But we will not undertake that course of action if it is
16 going to sacrifice the legitimate interests of some part of the
17 persons who are expected to receive the money from the
18 settlement.

19 So, that's kind of where we are in my current assessment.

20 I have not reached any conclusion that the court is of the
21 view that these class representatives are entitled to \$20,000
22 apiece for their work as class representatives.

23 I'm not saying that it's not justified. But I'm certainly
24 not prepared at this point to buyoff on the proposition that
25 five of these 83 people ought to collect \$20,000 apiece, when

1 the other 70-some odd would collect, obviously, a very
2 substantially smaller amount of money.

3 We have made some preliminary calculations. Accepting the
4 numbers provided to us that if the payouts were accomplished as
5 requested, that is, to the lawyers' fees and the class
6 representatives and others, the costs, we would have
7 approximately \$635,000 to be distributed among the members of
8 the class. That's over and above what's paid to the class
9 representative, and over and above what would be allocated for
10 attorneys' fees.

11 We have made or attempted to make some calculations of
12 actual wage losses that are within the \$635,000 number, and
13 have come up with an approximate figure of \$172,000 as wages
14 not paid that the plaintiffs would assert should have been
15 paid.

16 That leaves approximately \$460,000 of money that would be
17 available for allocation to the members of the class, which, I
18 presume, would be, at least in theory, to cover service
19 charges, other potential damages that might be recovered by
20 members of the class or individuals within the members --
21 within the class if the cases were to actually go to trial. It
22 would be kind of a catch-all number that would cover amounts of
23 claims over and above actual wage losses.

24 Our initial assessment, counsel, is that no matter what
25 label you put on it, that these monies to be received are all

1 going to be classified as -- or likely to be classified as
2 income, which means, of course, that the tax collectors are
3 going to want to have their interest in such transactions
4 addressed and taken care of.

5 And I don't read in the papers that have been provided to
6 us as yet, a clear picture of how all of that administrative
7 end of resolving the case would be taken care of and handled.

8 I certainly don't think it's a task to be assigned to the
9 court. And I, for purposes of our discussion today, just want
10 to alert you to these -- that question, among many others that
11 I've raised in this call, are yet to be addressed, and
12 ultimately, that will have to be resolved if we're going to
13 settle this case, or if we're going to try it. It doesn't
14 matter. These issues that we're talking about are issues that
15 are real to the case itself and to the matters that are raised
16 in the case. And I think it is unlikely that we can sweep any
17 of them under the rug and not address them directly and resolve
18 them.

19 So that's what I have to report to you, counsel. I
20 welcome any comments that you want to make. But I will go back
21 to the reality that we are waiting on response briefs that will
22 be coming in here on or before September 18. And presumably,
23 some of these matters will be addressed in the response briefs.
24 And I would certainly continue to invite counsel to bring to
25 the court's attention and brief any matters that you think are

1 necessary to assist the court in resolving this thing.

2 That is our objective. Our objective is to help you get
3 this case ready for trial, if you want to try it. If you want
4 to settle it, then we'll try to help you get it settled,
5 consistent with whatever the parameters are that prevail in
6 every class action or claimed to be class action lawsuit.

7 So that's where we are, counsel. I wanted you to have the
8 benefit of the court's present thinking on all of this. And
9 suggest that we all gear ourselves up for what may be a
10 somewhat lengthy trek to get to the end of the process.

11 I welcome your comments.

12 MR. SELIGMAN: Your Honor, this is David Seligman for
13 plaintiff.

14 So, I'd like to begin by stating that the plaintiffs
15 believe that much of the information that the court is
16 concerned about may be lacking. It's before the court, but we
17 appreciate that --

18 THE COURT: Well, let me interrupt you right there,
19 Mr. Seligman. I don't think it's the job of this court to wade
20 through pages and pages and pages of compilations of data from
21 some statistician and try to figure out what was intended.

22 That's not the job of the court. If it's there and it's
23 discernible and we can find it with reasonable effort, we'll
24 certainly undertake it. But I don't intend to assign staff
25 here to spend hours and hours and hours poring over data that

1 the court has already reviewed to some extent and determined to
2 be inadequate to answer the questions.

3 It may be a difference in approach. And we can attribute
4 it to that if that is the case. But it will not be the job to
5 be assumed by the court to look through hundreds of pages of
6 data to try to find out what somebody was intending to convey.

7 MR. SELIGMAN: Of course, Your Honor.

8 And I didn't mean to suggest that. What I was going to
9 say is that we appreciate that the filings are voluminous. We
10 think that one thing that could be helpful for the court is for
11 plaintiffs to submit a much more comprehensive declaration from
12 the statistician. The statistician's declaration at Docket
13 64-8 includes, for example, the amounts of service charges paid
14 to workers outside of the classes, the non-H2B workers, that
15 were used as the amounts that service charges that should have
16 been paid to the class members.

17 But, I think we can update it with a more comprehensive
18 and conclusive declaration from the statistician. The parties
19 would be able to walk you through precisely how those
20 calculations were made, and what data was relied upon in making
21 those calculations.

22 THE COURT: I certainly welcome all assistance that
23 counsel want to provide. We will gladly receive that. And
24 we'll endeavor to work, we trust, reasonably with it. But that
25 doesn't translate into handing the court a three-inch stack of

1 papers, and say: "Judge, have a look. And when you've figured
2 out what you think ought to happen, come tell us." That's not
3 the approach we will take.

4 MR. SELIGMAN: Of course, Your Honor.

5 So I just want wanted to say, you identified the defendant
6 has the opportunity to submit a responsive brief --

7 THE COURT: And they haven't done anything. The
8 defendants have not submitted anything of substance to the
9 court, as yet. Now, they're going to have the opportunity by
10 the 18th of September to respond. And if we need more briefing
11 after that, we can always order it.

12 But right now, I don't have anything from the defendants
13 except what is characterized as an unopposed motion. Which one
14 might read as saying everything that's in it is exactly as the
15 defendants would agree it should be interpreted. I don't
16 choose to do that, because I'm not certain that that's the
17 defendants' position. And we don't want to be running off
18 without a full knowledge of what's happening.

19 MR. SELIGMAN: Yes, Your Honor.

20 And so, I just wanted to identify that if the court was
21 open to it, the plaintiffs believe that we can provide briefing
22 and an updated declaration from the statistician that would
23 much more clearly respond to some of the concerns that the
24 court has identified today.

25 THE COURT: Well, I welcome that, counsel. I will

1 gladly accept all of the assistance that counsel feel they wish
2 to provide. Because we have a collective responsibility, and
3 that's to get this case resolved either by settlement or by
4 trial on the merits, in a manner that's consistent with the
5 rules we're all expected to operate under.

6 And that requires, in my view, openness and candor all
7 around. Which means, from my standpoint, it means input from
8 everyone. I don't get much from the -- that's helpful to the
9 court when I get nothing from the defendant, except the
10 representation that whatever the plaintiff has said is
11 unopposed. That may be accurate. And if that's accurate, then
12 the defendant should say so. Defendants --

13 MR. ROTH: Your Honor, if I may, Jeff Roth.

14 Your Honor, we'll -- we will -- pursuant to the court's
15 order, we will submit a brief on or before the 18th that
16 addresses the issues that the court has raised here, as well as
17 in its written order to -- to address any questions -- we hope
18 to address any questions the court may have, and to set forth
19 the defendants' position on the issues that you've asked about.

20 THE COURT: Well, counsel --

21 MS. ZELDIN: We will do that, as well.

22 THE COURT: Yeah. Go ahead.

23 MS. ZELDIN: Thank you, Your Honor.

24 I was just stating we will submit a response, as well.

25 THE COURT: All right.

1 Very good.

2 Well, I make an observation, counsel, which comes from not
3 all of the experience that anyone can have. But I spent about
4 35 years as a practicing lawyer before I took on the job I have
5 now. And both sides are faced with monumental tasks if the
6 court were to reach the conclusion that this case cannot be
7 appropriately managed as a class case, and that you're going to
8 have to file 83 different lawsuits to get these controversies
9 resolved. I haven't reached that conclusion. But at one
10 level, it appears that there's going to be a request made of
11 the court that all of these people be treated equally for
12 purposes of some distribution. And that is not the case in
13 terms of their work history. They are not in equal position
14 one with the other. They are not one-size-fits-all in terms of
15 the hours they work, or the rates at which they worked, or the
16 jobs they performed.

17 And we'll look at all suggestions that are made to the
18 court about how we handle that. But I see within the picture,
19 the possibility that we've got 83 people, each with, basically,
20 a different claim from the other 82.

21 And if we're going to be fair about this, we have to be
22 concerned that we don't dump all of these people into a common
23 pot and say: "We'll just mix them up and roll them out like
24 chitlins." We're not going to do that, counsel. At least, I'm
25 not going to cooperate in doing that if there's a better way to

1 avoid it.

2 Because I don't think that's the fair thing to do. And
3 above all, we ought to be concerned about fairness in the
4 resolution of this case.

5 MR. SELIGMAN: Your Honor, on that point -- and this
6 is David Seligman for the plaintiffs. We're very happy to walk
7 you through what we anticipate being the formula for
8 disbursement.

9 THE COURT: I would welcome that, counsel, because it
10 is missing from what I am looking at to this point, as I have
11 read the papers. And maybe it's in papers that I haven't yet
12 fully come to understand. But I expect to know that when we
13 resolve this matter, if it is to be resolved as we're talking
14 about.

15 MR. SELIGMAN: Yes, Your Honor.

16 It is spelled out in the settlement agreement attached as
17 Exhibit 1 to the brief in support of motion for preliminary
18 approval. The plaintiffs will, in a supplemental filing, spell
19 out and identify for the court what the distribution plan is
20 and talk to the court how it would operate in this case.

21 THE COURT: I think that is critical to have that.

22 Well, counsel, I am confident we can work all of this out
23 with the cooperative effort among those who are involved. But
24 I encourage everyone to keep an open mind about what may be
25 required. And it may, in some instances, seem to you

1 individually or collectively, that you're being asked to do
2 more than you think you ought to have to do. You may find
3 yourself faced with that. But if it's the court's view that
4 it's necessary, I'm likely to require it.

5 MR. SELIGMAN: Absolutely, Your Honor. And we
6 appreciate that.

7 But the other thing that we can spell out more explicitly
8 is that the motion before the court is one of issuance of
9 notice under Rule 23(e)(1).

10 THE COURT: Yes.

11 MR. SELIGMAN: Although, we do have a plan for
12 disbursement that we can identify for the court.

13 The question of the fairness of the distribution plan is,
14 under Rule 23, to be analyzed, traditionally, under Rule
15 23(e)(2), which is that after notice has been provided, and
16 class members had the opportunity to object or exclude
17 themselves from the class.

18 So, I'm very happy to walk the court through and -- but,
19 in addition, wanted to spell out a little bit more the
20 procedural posture we're currently confronted with.

21 THE COURT: Well, I'm sure we'll try to follow -- you
22 can count on that we will try to follow all of the requirements
23 of the Rules of Civil Procedure in bringing this matter to
24 conclusion. That will be done, to the extent that the court
25 can participate in the process to get it done.

1 So . . .

2 But I think, counsel, for today, the most I can tell you
3 is that there are a lot of unanswered questions here. First
4 step in this process is to get a response from the defendants.
5 And we'll see what comes from that. And that may answer some
6 of the questions that the court has at this point.

7 It may generate other questions that will require another
8 conference or similar to -- like this one or similar to it. Or
9 it may require people to travel to Montana, and we'll have a
10 courtroom hearing.

11 We are all faced with the dilemma that's come -- that's
12 been visited upon us because of the corona virus, and we will
13 continue to deal with that until that's lifted.

14 But, in the meantime, we'll do the best we can with what
15 we have to work with.

16 So, I wanted to report to you on these matters. To leave
17 it where we are, I think, is to await the materials that will
18 come in from the defendant. We'll take another look and a
19 further look at the papers that have been filed at that point.
20 And we'll see what additional questions can be answered at that
21 juncture.

22 And, if necessary and appropriate, create a list of what
23 is yet to be resolved. And bit by bit, counsel, we will get
24 this case resolved, if you want it settled.

25 Assuming we can make all the bits and pieces fit into the

1 appropriate mold.

2 Anything else you want to talk about today?

3 MR. SELIGMAN: Not for plaintiffs, Your Honor.

4 THE COURT: Any of the defendants? You've been
5 noticeably silent throughout this process.

6 MR. ROTH: Your Honor, Jeff Roth. Nothing here, Your
7 Honor.

8 We will brief it by the 18th.

9 THE COURT: All right.

10 Well, counsel --

11 MS. ZELDIN: This is Lauren Zeldin. (Inaudible).

12 THE COURT: Well, counsel, I will emphasize to all of
13 you, if it's of any question, this is a court that works on the
14 basis of the record.

15 So, I encourage, if you want the court to take note of
16 some activity, no matter what it is, I would recommend it be on
17 the record, because you won't get anywhere trying to convince
18 the court that you had some private conversation between
19 counsel that resulted in some sort of an arrangement that's not
20 written down. We won't be doing that.

21 And for your information, counsel, if any lawyer in this
22 case, and this rule applies in every case that is in our court,
23 if any lawyer puts himself or herself in the position of having
24 to be the equivalent of put under oath to enter into a swearing
25 contest with some other lawyer, I will disqualify him or her

1 from the case immediately. And I'll disqualify everybody in
2 his or her firm. We will not have lawyers attempting to serve
3 the dual purpose of being witness and advocate in the same
4 case.

5 And that's not a threat, counsel. It's just a reality of
6 the way this court works.

7 Anything else you want to talk about today?

8 Hearing nothing, we're going to conclude the conference
9 and I look forward to getting the materials that will show up
10 here on or before the 18th. And we will be in touch as
11 appropriate, counsel.

12 Take care.

13 MR. SELIGMAN: Thank you, Your Honor.

14 MS. ZELDIN: Thanks, Your Honor.

15 (The proceedings in this matter were adjourned at
16 2:47 p.m.)

17

18 C E R T I F I C A T E

19

20 I certify that the foregoing is a correct transcript from
21 the record of proceedings in the above-entitled matter.

22 /s/ Tina C. Brilz, RPR, FCRR

23 Dated this 7th day of September, 2020.

24

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